

106TH CONGRESS  
1ST SESSION

# S. 928

To amend title 18, United States Code, to ban partial-birth abortions.

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## IN THE SENATE OF THE UNITED STATES

APRIL 29, 1999

Mr. SANTORUM (for himself, Mr. SMITH of New Hampshire, Mr. LOTT, Mr. ABRAHAM, Mr. ALLARD, Mr. ASHCROFT, Mr. BOND, Mr. BROWNBACK, Mr. BUNNING, Mr. BURNS, Mr. COCHRAN, Mr. CRAIG, Mr. CRAPO, Mr. DEWINE, Mr. DOMENICI, Mr. ENZI, Mr. FITZGERALD, Mr. FRIST, Mr. GORTON, Mr. GRAMM, Mr. GRAMS, Mr. GRASSLEY, Mr. HAGEL, Mr. HATCH, Mr. HELMS, Mr. HUTCHINSON, Mr. INHOFE, Mr. KYL, Mr. LUGAR, Mr. MACK, Mr. MCCAIN, Mr. MCCONNELL, Mr. MURKOWSKI, Mr. NICKLES, Mr. ROBERTS, Mr. SESSIONS, Mr. SHELBY, Mr. SMITH of Oregon, Mr. THOMAS, Mr. THURMOND, Mr. VOINOVICH, and Mr. WARNER) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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## A BILL

To amend title 18, United States Code, to ban partial-birth abortions.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

### 3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Partial-Birth Abortion  
5 Ban Act of 1999”.

1 **SEC. 2. PROHIBITION ON PARTIAL-BIRTH ABORTIONS.**

2 (a) IN GENERAL.—Title 18, United States Code, is  
3 amended by inserting after chapter 73 the following:

4 **“CHAPTER 74—PARTIAL-BIRTH ABORTIONS**

“Sec.

“1531. Partial-birth abortions prohibited.

5 **“§ 1531. Partial-birth abortions prohibited**

6 “(a) Any physician who, in or affecting interstate or  
7 foreign commerce, knowingly performs a partial-birth  
8 abortion and thereby kills a human fetus shall be fined  
9 under this title or imprisoned not more than two years,  
10 or both. This paragraph shall not apply to a partial-birth  
11 abortion that is necessary to save the life of a mother  
12 whose life is endangered by a physical disorder, illness,  
13 or injury. This paragraph shall become effective one day  
14 after enactment.

15 “(b)(1) As used in this section, the term ‘partial-birth  
16 abortion’ means an abortion in which the person per-  
17 forming the abortion partially vaginally delivers a living  
18 fetus before killing the fetus and completing the delivery.

19 “(2) As used in this section, the term ‘physician’  
20 means a doctor of medicine or osteopathy legally author-  
21 ized to practice medicine and surgery by the State in  
22 which the doctor performs such activity, or any other indi-  
23 vidual legally authorized by the State to perform abor-  
24 tions: *Provided, however,* That any individual who is not

1 a physician or not otherwise legally authorized by the  
 2 State to perform abortions, but who nevertheless directly  
 3 performs a partial-birth abortion, shall be subject to the  
 4 provisions of this section.

5 “(3) As used in this section, the term ‘vaginally deliv-  
 6 ers a living fetus before killing the fetus’ means delib-  
 7 erately and intentionally delivers into the vagina a living  
 8 fetus, or a substantial portion thereof, for the purpose of  
 9 performing a procedure the physician knows will kill the  
 10 fetus, and kills the fetus.

11 “(c)(1) The father, if married to the mother at the  
 12 time she receives a partial-birth abortion procedure, and  
 13 if the mother has not attained the age of 18 years at the  
 14 time of the abortion, the maternal grandparents of the  
 15 fetus, may in a civil action obtain appropriate relief, unless  
 16 the pregnancy resulted from the plaintiff’s criminal con-  
 17 duct or the plaintiff consented to the abortion.

18 “(2) Such relief shall include—

19 “(A) money damages for all injuries, psycho-  
 20 logical and physical, occasioned by the violation of  
 21 this section; and

22 “(B) statutory damages equal to three times  
 23 the cost of the partial-birth abortion.

24 “(d)(1) A defendant accused of an offense under this  
 25 section may seek a hearing before the State Medical Board

1 on whether the physician’s conduct was necessary to save  
 2 the life of the mother whose life was endangered by a  
 3 physical disorder, illness or injury.

4 “(2) The findings on that issue are admissible on that  
 5 issue at the trial of the defendant. Upon a motion of the  
 6 defendant, the court shall delay the beginning of the trial  
 7 for not more than 30 days to permit such a hearing to  
 8 take place.

9 “(e) A woman upon whom a partial-birth abortion is  
 10 performed may not be prosecuted under this section, for  
 11 a conspiracy to violate this section, or for an offense under  
 12 section 2, 3, or 4 of this title based on a violation of this  
 13 section.”.

14 (b) CLERICAL AMENDMENT.—The table of chapters  
 15 for part I of title 18, United States Code, is amended by  
 16 inserting after the item relating to chapter 73 the fol-  
 17 lowing new item:

“**74. Partial-birth abortions** ..... **1531**”.

